IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (CG)

WRIT PETITION NO. 1510 /2004

PETITIONER

Dr. Prem Bodalkar, aged about 50 years, son of Shri Nandlal Bodalkar, Presently posted : Assistant Surgeon and Block Medical Officer, Tah. Gharghoda, Distt. Raigarh (C.G.), Earlier posted at P.H.C. Sariya, Distt. Raigarh and Dharamjaigarh Civil Hospital, Raigarh (Chhattisgarh)

P. R. No. 1510/04
Presented by Shri A.V. Bhatia
dated 01.06.04

VERSUS

RESPONDENTS

1. The State of Chhattisgarh, through : the Secretary, Department of Health and Family Welfare, D.K.S. Bhawan, Raipur (C.G.)

2. The Awar Sachiv, Department of Health and Family Welfare, D.K.S. Bhawan, Raipur (CG)

3. The Director, Department of Health Services D.K.S. Bhawan, Raipur (C.G.)

4. The Collector, District Raigarh (Chhattisgarh).

5. The Chief Medical Officer, District Hospital, District Raigarh (C.G.)

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Govt. A.G. Bilaspur
1/6/04

WRIT PETITION UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA.

(35)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP No. 1510/04 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

9/6/2004

Shri A.N. Bhakta for the petitioner.

Shri Sanjay S. Agrawal, Panel Lawyer, for the State.

I.A. No.3520/04 for urgent hearing and I.A. No.3521/04 for hearing during summer vacation are allowed.

With consent heard finally.

By this writ petition under Article 226/227 of the Constitution of India, the petitioner has challenged the order (Annexure-P/1) passed by respondent no.2, whereby the petitioner has been dismissed from service on the ground that he has been convicted by Judicial Magistrate First class, Dharamjaigarh, District Raigarh in Criminal Case No.4/95 decided on 5/12/2002 under Section 467 read with Section 471 IPC and sentenced to undergo R.I. for three years and pay fine of Rs.5000/-. The services of the petitioner have been terminated ond the ground that such conviction which has been made is misconduct under Civil Services (Classification, Control and Appeal) Rules, 1966. It is also stipulated in the said order that since misconduct is such, no enquiry under Rule 19 read with Rule 14 of the said Rules has to be conducted and in view of the provisions under Article 311 (2)(a) of the Constitution of India, departmental enquiry is not necessary. This order was passed in November, 2003. On 29/4/2004, a copy was served on Collector and on 21/5/2004 it was served on the petitioner.

[पीछे देखिये

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(36)

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

It is submitted that the conviction and sentence have been challenged by the petitioner. Counsel for the petitioner submits that the petitioner was convicted by Judicial Magistrate. He has preferred criminal appeal bearing No.149/02 (Dr.Prem Bodalkar vs. State of Chhattisgarh and others) and the said appeal preferred by him has been allowed and the order of conviction has been set aside on 26/7/2003. The petitioner has submitted Annexures-P/3 and P/4. Notice of this petition was given on 7/6/2004.

Shri Sanjay S. Agrawal, Panel Lawyer for the State, submits that he is not in a position to dispute that now the petitioner has been acquitted and he was dismissed simply without holding any enquiry.

Having considered the facts and circumstances of the case and material on record, since the dismissal was mainly on the ground that he has been convicted and now conviction has been set aside by the lower appellate court, dismissal from service on that count is not sustainable.

Under the circumstances, the order passed by respondent no.2 dismissing the petitioner from service is set-aside.

Accordingly, this petition stands disposed of.

Before parting, it is made clear that since the dismissal was on the ground of conviction and no enquiry was held, the order of dismissal has been set aside on this legal ground alone.

Sd/-
Fakhruddin
Judge

[पीछे देखिये